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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,175	06/13/2001	Allison London Brown	PPC-794	5818
27777	7590	11/17/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/880,175

Applicant(s)

LONDON BROWN, ALLISON

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9-12, 14 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7, 9-12, 14, and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Welch et al. (6,286,145).

Welch discloses an absorbent article comprising an absorbent core 14 and a breathable film backsheet 16, as shown in figure 1. The backsheet 16 has a MVTR of about 6,000 to about 7,000 g/m<sup>2</sup>/24 hours, as disclosed in column 10, lines 32-33. The backsheet 16 has a basis weight of less than about 32 g/m<sup>2</sup>, as disclosed in column 11, lines 29-30. The backsheet 16 is fully capable of being positioned facing a garment.

With respect to claims 2 and 3, the backsheet 16 has a MVTR of about 6,000 g/m<sup>2</sup>/24 hours, as disclosed in column 10, lines 32-33.

With respect to claims 4 and 5, the backsheet 16 has a basis weight of about 30 g/m<sup>2</sup>, as disclosed in column 11, lines 29-30.

With respect to claim 7, the article further comprises a cover 12 and transfer layer 16A, as shown in figure 3.

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With respect to claim 9, since no structure is associated with the claimed release paper, it is the examiner's position that layer 12 may function as a release paper.

With respect to claim 10, the article is a surgical dressing, as disclosed in column 1, lines 14-16.

With respect to claim 11, the article inherently has a color, and since all colors are disclosed in the instant claim by the limitation "and mixtures thereof," the article fulfills the limitations of the claim.

With respect to claim 12, the backsheet 16 has a MVTR of about 6,000 g/m<sup>2</sup>/24 hours and a basis weight of about 30 g/m<sup>2</sup>.

With respect to claim 16, since no structure is associated with the claimed release paper, it is the examiner's position that layer 12 may function as a release paper.

With respect to claim 17, the article is a surgical dressing, as disclosed in column 1, lines 14-16.

With respect to claim 18, the article inherently has a color, and since all colors are disclosed in the instant claim by the limitation "and mixtures thereof," the article fulfills the limitations of the claim.

#### ***Allowable Subject Matter***

Claims 6, 8, 13, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the claimed structure. Specifically, the prior art of record fails to disclose an absorbent core disposed between a body-facing cover and a garment-facing backsheet, the backsheet comprising a film having a MVTR of between 5800 and 10000 g/m<sup>2</sup>/24 hours, and a basis weight of less than 32 g/m<sup>2</sup>.

### ***Response to Arguments***

Applicant's arguments filed 23 August 2004 with respect to claims 1-5, 7, 9-12, 14, and 16-19 have been fully considered but they are not persuasive.

In response to the applicant's argument that Welchel fails to disclose a garment-facing backsheet, it is noted that the special relations between the absorbent article and a garment are not described in the claim. The absorbent article disclosed by Welchel is fully capable of being positioned such that the backsheet faces a garment, and thus Welchel fulfills all limitations of the claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,865,823 discloses a film backsheet having a MVTR of 5242 g/m<sup>2</sup>/24 hours, as described in column 7, lines 40-65.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

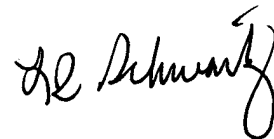
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA

cla

November 12, 2004



Larry I. Schwartz  
Supervisory Patent Examiner  
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